

REASONABLE APPROVAL OF RURAL HOSPITALS FOR MEDICARE PURPOSES

DECEMBER 7, 1970.—Ordered to be printed

Mr. BURLISON, of Texas, from the Committee on Ways and Means,
submitted the following

REPORT

[To accompany H.R. 19470]

The Committee on Ways and Means, to whom was referred the bill (H.R. 19470) to amend title XVIII of the Social Security Act to modify the nursing service requirement and certain other requirements which an institution must meet in order to qualify as a hospital thereunder so as to make such requirements more realistic insofar as they apply to smaller institutions, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That section 1861(e)(5) of the Social Security Act is amended by adding immediately after the semicolon at the end thereof the following:

"except that until January 1, 1976, the Secretary is authorized to waive the requirement of this paragraph for any one-year period with respect to any institution, insofar as such requirement relates to the provision of 24-hour nursing service rendered or supervised by a registered professional nurse (except that in any event a registered professional nurse must be present on the premises to render or supervise the nursing service provided during at least the regular daytime shift), where immediately preceding such one-year period he finds that—

"(A) such institution is located in a rural area and the supply of hospital services in such area is not sufficient to meet the needs of individuals residing therein,

"(B) the failure of such institution to qualify as a hospital would seriously reduce the availability of such services to such individuals, and

"(C) such institution has made and continues to make a good faith effort to comply with this paragraph, but such compliance is impeded by the lack of qualified nursing personnel in such area;"

PURPOSE

The purpose of H.R. 19470, as amended, is to permit certain hospitals which have had difficulty in securing required nursing services to continue to participate in the medicare program for up to 5 years under specified conditions.

GENERAL STATEMENT

According to policy established by the Social Security Administration, a hospital or extended care facility is certified for participation in medicare if it is in full compliance (meets all the requirements of the Social Security Act and is in accordance with all regulatory requirements for participation), or if it is in "substantial" compliance (meets all the statutory requirements and the most important regulatory conditions for participation). Thus, while an institution may be deficient with respect to one or more standards of participation, it may still be found to be in substantial compliance, if the deficiencies do not represent a hazard to patient health or safety, and efforts are being made to correct the deficiencies.

It has been recognized that there is a need to assure continuing availability of medicare-covered institutional care in rural areas, many of which may have only one hospital, without jeopardizing the health and safety of patients. To achieve this objective, the approach has been adopted by Social Security of certifying "access" hospitals while documenting their deficiencies and requiring upgrading of plant and staff. State agencies have also been required to provide consultation and assistance to these facilities in an effort to help them achieve compliance with the standards. Certain "access" hospitals, to the extent that they are capable, have succeeded in overcoming deficiencies. However, many hospitals have not demonstrated sufficient willingness to take the steps necessary to correct deficiencies and have instead been willing to continue as "access" hospitals with all the limitations in quality care that this status entails. In other areas, some rural hospitals despite proper efforts have been unable to secure required personnel or otherwise comply.

To deal with the dilemma created by the need to assure the availability of hospital services of adequate quality in rural areas and the fact that existing shortages of qualified nursing personnel make it difficult for some rural hospitals to meet the nursing staff requirements of present law, your committee's bill would authorize the Secretary, under certain conditions, to waive the requirement that an access hospital have registered professional nurses on duty around the clock. This requirement could be waived only if the Secretary finds that the hospital:

- (a) Has at least one registered nurse on the day shift and has made, and is continuing to make, a bona fide effort to comply with the registered nursing staff requirement with respect to other shifts (which, in the absence of an R.N. are covered by licensed practical nurses) but is unable to employ the qualified personnel necessary, at prevailing wage or salary levels, because of nursing personnel shortages in the area;

(b) Is located in an isolated geographical area in which hospitals are in short supply and the closest other participating hospitals are not readily accessible to people of the area; and

(c) Nonparticipation of the "access" hospital would seriously reduce the availability of hospital services to medicare beneficiaries residing in the area.

Under the provision, the Secretary would regularly review the situation with respect to each hospital, and the waiver would be granted on an annual basis for not more than one-year at a time. The waiver authority would be applicable only with respect to the nursing staff requirement; no waiver authority would be provided under the amendment with respect to any other conditions of participation or any standards relating to health and safety.

The proposed waiver authority would expire December 31, 1975.

Your committee is unanimous in recommending the enactment of this bill.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SECTION 1861(e) OF THE SOCIAL SECURITY ACT

DEFINITION OF SERVICES, INSTITUTIONS, ETC.

SEC. 1861. For purposes of this title—

(a) * * *

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HOSPITAL

(e) The term "hospital" (except for purposes of sections 1814(d) and 1835(b), subsection (a)(2) of this section, paragraph (7) of this subsection, and subsections (i) and (n) of this section) means an institution which—

(1) is primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

(2) maintains clinical records on all patients;

(3) has bylaws in effect with respect to its staff of physicians;

(4) has a requirement that every patient must be under the care of a physician;

(5) provides 24-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times; *except that until January 1, 1976, the Secretary is authorized to waive the requirement of this paragraph for any one-year period with respect to any institution, insofar as such requirement relates to the provision of 24-hour nursing service rendered or supervised by a registered*

professional nurse (except that in any event a registered professional nurse must be present on the premises to render or supervise the nursing service provided during at least the regular daytime shift), where immediately preceding such one-year period he finds that—

(A) such institution is located in a rural area and the supply of hospital services in such area is not sufficient to meet the needs of individuals residing therein,

(B) the failure of such institution to qualify as a hospital would seriously reduce the availability of such services to such individuals, and

(C) such institution has made and continues to make a good faith effort to comply with this paragraph, but such compliance is impeded by the lack of qualified nursing personnel in such area,

(6) has in effect a hospital utilization review plan which meets the requirements of subsection (k);

(7) in the case of an institution in any State in which State or applicable local law provides for the licensing of hospitals, (A) is licensed pursuant to such law or (B) is approved, by the agency of such State or locality responsible for licensing hospitals, as meeting the standards established for such licensing; and

(8) meets such other requirements as the Secretary finds necessary in the interest of the health and safety of individuals who are furnished services in the institution, except that such other requirements may not be higher than the comparable requirements prescribed for the accreditation of hospitals by the Joint Commission on Accreditation of Hospitals (subject to the second sentence of section 1863).

For purposes of subsection (a)(2), such term includes any institution which meets the requirements of paragraph (1) of this subsection. For purposes of sections 1814(d) and 1835(b) (including determination of whether an individual received inpatient hospital services or diagnostic services for purposes of such sections), and subsections (i) and (n) of this section, such term includes any institution which (i) meets the requirements of paragraphs (5) and (7) of this subsection, (ii) is not primarily engaged in providing the services described in section 1861(j)(1)(A) and (iii) is primarily engaged in providing, by or under the supervision of individuals referred to in paragraph (1) of section 1861(r) to inpatients diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

Notwithstanding the preceding provisions of this subsection, such term shall not, except for purposes of subsection (a)(2), include any institution which is primarily for the care and treatment of mental diseases or tuberculosis unless it is a tuberculosis hospital (as defined in subsection (g)) or unless it is a psychiatric hospital (as defined in subsection (f)). The term "hospital" also includes a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Mass., but only with respect to items and services ordinarily furnished by such institution to inpatients, and payment may be made with respect to services provided by or in such an institution only to such extent and under

such conditions, limitations, and requirements (in addition to or in lieu of the conditions, limitations, and requirements otherwise applicable) as may be provided in regulations. For provisions deeming certain requirements of this subsection to be met in the case of accredited institutions, see section 1865.

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